



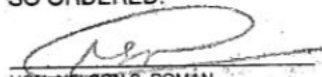
GERMELE & WOOD LLP

In light of the parties' joint letter at ECF No. 94, the Court deems Plaintiff's request to compel Defendants' participation in mediation as MOOT. The Clerk of Court is respectfully directed to terminate the motion at ECF No. 92.

Benjamin M. Rattner, Partner
ben@cw.legal

Dated: August 16, 2023
White Plains, NY

SO ORDERED:


HON. NELSON S. ROMAN
UNITED STATES DISTRICT JUDGE

August 4, 2023

VIA ECF AND EMAIL (ROMANNYSDCHAMBERS@NYSD.USCOURTS.GOV)

Hon. Nelson S. Román, U.S.D.J.
United States Courthouse
300 Quarropas Street
White Plains, New York 10601

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 8/16/2023
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Re: Case Property Services, LLC v. Columbia Properties Phoenix, L.P., et al.
Case No.: 17-cv-03110

Dear Judge Román:

This firm represents the plaintiff, Case Property Services, LLC ("CPS"), in the above-referenced action. On June 20, 2023, the parties jointly wrote the Court to advise it of the status of their attempt to voluntarily mediate this case. See ECF No. 90. In response, the Court Ordered the parties to provide it with an update as to mediation by August 4, 2023. ECF No. 91. We write to respectfully request that the Court Order defendants Columbia Properties Phoenix, L.P. ("Columbia Phoenix"), Columbia Sussex Corporation ("Columbia Sussex"), Christopher J. Ballad, and Columbia Properties Minneapolis, Ltd. (together, the "Defendants") to participate in Court-Ordered Alternative Dispute Resolution pursuant to Local Rule 83.9. The reason for this request stems from Defendants' bad faith conduct with respect to the previously agreed-upon mediation, which ultimately did not occur.

On April 21, 2023, the parties engaged Hon. Judge Jose L. Linares (Ret.), and prepared mediation submissions for him in anticipation of an August 1, 2023 mediation. On July 27, 2023, after mediation statements had been submitted and schedules rearranged, Defendants alerted the mediator that they did not intend to proceed with the mediation unless CPS agreed to certain material and significant monetary concessions prior to the mediation session. CPS refused to agree to this precondition, but expressed to Judge Linares its willingness to negotiate in good faith at the mediation. Over the past several days, CPS returned to Judge Linares, agreeing to a portion of the requested monetary concession precondition, but this agreement and Judge Linares' efforts to have Defendants reengage and participate in the mediation for which everyone had prepared, has been fruitless thus far.

Given that Defendants previously agreed to mediation without preconditions and that the parties all prepared for mediation, CPS respectfully requests that the Court Order Defendants to mediate pursuant to Local Rule 83.9(e)(3)—even over Defendants' objections, if any. If possible, CPS respectfully requests that the Court Order mediation before Judge Linares (Ret.), who is

MEMO ENDORSED

Hon. Nelson S. Roman, U.S.D.J.

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already familiar with the parties' arguments and positions and has expended time and the parties' resources in preparing for the mediation.

We thank the Court for its time and attention to this request.

Respectfully submitted,

/s/ Benjamin M. Rattner

Benjamin M. Rattner

cc: George M. Vinci, Jr., Esq.
David B. Picker, Esq.
(*via ECF*)